IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Crl.MC.No. 2836 of 2006()

[CRIME NO.343/2004 OF SREEKANDAPURAM POLICE STATION]
C.C.NO.148/2006 OF J.F.C.M THALIPARAMBA

PETITIONER: ACCUSED:

NIDHEESH. P.V., CHEMPALLIKUNDU,
MADAYI AMSOM, VENGARA DESOM,
KANNUR DISTRICT.

BY ADV. SRI.PROMY KAPRAKKATT
SRI.K.N.ABHILASH

RESPONDENTS: COMPLAINANT:

---

1. THE STATE OF KERALA,
REP. BY THE SUB-INSPECTOR OF POLICE,
SREEKANDAPURAM POLICE STATION,
KANNUR DISTRICT THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

2. RASMI, W/O. NIDHEESH P.V.,
S/O. U. KUNHIRAMAN, CHEMPALLIKUNDU,
MADAYI AMSOM, VENGARA DESOM, KANNUR DISTRICT.
NOW.RESI.PAPPNISSERY, PADINJHARE VEETTIL,
D/O. KANNAN NAMBIAR, PRIPPAYI, CHENGALAYO AMSOM
SREEKANDAPURAM, KANNUR DISTRICT.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB
SRI.M.SASINDRAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2836 of 2007

Dated this the 17th day of July 2007

O R D E R

The petitioner faces indictment in a prosecution under Sections 341 and 354 I.P.C. The crux of the allegations against him is that he unlawfully restrained and indecently assaulted the de facto complainant. Cognizance has been taken on the basis of a final report submitted by the police after due investigation.

2. The petitioner has come to this court with the prayer that powers under Section 482 Cr.P.C may be invoked to quash the proceedings against him. What is the ground? According to the petitioner, the alleged victim/de facto complainant is his legally married wife and in these circumstances the prosecution launched suppressing the vital fact that the de facto complainant is the legally married wife of the petitioner is vexatious, unnecessary and calculated to harass the petitioner. The respondent/de facto complainant has entered appearance. The respondent contends that there is no valid marriage between the petitioner and the de facto complainant. Allegations to that effect are not true. At any rate, at this stage, there is no material to come to the conclusion that there has been a valid marriage between the petitioner and the de facto complainant. Even

assuming that there is a valid marriage, the alleged offences do not cease to be offences merely because the petitioner and the de facto complainant are allegedly married.

3. I have considered the submissions made. In proceedings under Section 482 Cr.P.C invoking the inherent jurisdiction, resolution of disputed facts will not be possible. On the materials presently available, I am unable to come to a conclusion that such valid marriage exists between the petitioner and the de facto complainant or that the alleged overt acts will not constitute offences if such offences are committed by one spouse against the other. I do not intend to express any final opinion on merits. I intend only to express that this is not a fit case where powers under Section 482 Cr.P.C can or ought to be invoked to prematurely terminate the proceedings against the petitioner.

4. This petition is in these circumstances dismissed but with the observation that the dismissal of this petition will not in any way fetter the rights of the petitioner to raise all necessary and relevant contentions before the learned Magistrate.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007